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7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 2009-17

11 **PERCY R. WADE**
12 2 Guerrero St. #202
San Francisco, CA 94103

A C C U S A T I O N

13 Registered Nurse License No. 610760

14 Respondent.

15
16 Complainant alleges:

17 **PARTIES**

18 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation
19 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
20 Department of Consumer Affairs.

21 2. On or about December 17, 2002, the Board of Registered Nursing issued
22 Registered Nurse License Number 610760 to Percy R. Wade (Respondent). The Registered
23 Nurse License was in full force and effect at all times relevant to the charges brought herein and
24 will expire on July 31, 2010, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Registered Nursing
27 (Board), Department of Consumer Affairs, under the authority of the following laws. All section
28 references are to the Business and Professions Code unless otherwise indicated.

1 4. **Section 2750** of the Business and Professions Code (Code) provides, in
2 pertinent part, that the Board may discipline any licensee, including a licensee holding a
3 temporary or an inactive license, for any reason provided in Article 3 (commencing with section
4 2750) of the Nursing Practice Act.

5 5. **Section 2764** of the Code provides, in pertinent part, that the expiration of
6 a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding
7 against the licensee or to render a decision imposing discipline on the license. Under section
8 2811(b) of the Code, the Board may renew an expired license at any time within eight years after
9 the expiration.

10 **STATUTORY PROVISIONS**

11 6. **Section 490** of the Code states:

12 “A board may suspend or revoke a license on the ground that the licensee has
13 been convicted of a crime, if the crime is substantially related to the qualifications, functions, or
14 duties of the business or profession for which the license was issued. A conviction within the
15 meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo
16 contendere. Any action which a board is permitted to take following the establishment of a
17 conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has
18 been affirmed on appeal, or when an order granting probation is made suspending the imposition
19 of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the
20 Penal Code.”

21 7. **Section 493** of the Code states:

22 “Notwithstanding any other provision of law, in a proceeding conducted by a board
23 within the department pursuant to law to deny an application for a license or to suspend or revoke
24 a license or otherwise take disciplinary action against a person who holds a license, upon the
25 ground that the applicant or the licensee has been convicted of a crime substantially related to the
26 qualifications, functions, and duties of the licensee in question, the record of conviction of the
27 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
28 and the board may inquire into the circumstances surrounding the commission of the crime in

1 order to fix the degree of discipline or to determine if the conviction is substantially related to the
2 qualifications, functions, and duties of the licensee in question. . .”

3 8. **Section 2761** of the Code states:

4 “The board may take disciplinary action against a certified or licensed nurse or
5 deny an application for a certificate or license for any of the following:

6 “(a) Unprofessional conduct, which includes, but is not limited to, the following:

7 . . .

8 “(4) Denial of licensure, revocation, suspension, restriction, or any other
9 disciplinary action against a health care professional license or certificate by another state or
10 territory of the United States, by any other government agency, or by another California health
11 care professional licensing board. A certified copy of the decision or judgment shall be
12 conclusive evidence of that action.

13 . . .

14 “(f) Conviction of a felony or of any offense substantially related to the
15 qualifications, functions, and duties of a registered nurse, in which event the record of the
16 conviction shall be conclusive evidence thereof.

17 . . .

18 9. **California Code of Regulations Title 16 section 1444** states:

19 “A conviction or act shall be considered to be substantially related to the
20 qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the
21 present or potential unfitness of a registered nurse to practice in a manner consistent with the
22 public health, safety, or welfare. Such convictions or acts shall include but not be limited to the
23 following:

24 . . .

25 (c) Theft, dishonesty, fraud, or deceit.”

26 . . .

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1 **COSTS**

2 10. Section 125.3 of the Code provides, in pertinent part, that the Board may
3 request the administrative law judge to direct a licensee found to have committed a violation or
4 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
5 and enforcement of the case.

6 **FACTUAL ALLEGATIONS**

7 11. On or about December 14, 2006, in San Francisco Superior Court Case
8 No. 2275818, Respondent was convicted on his plea of guilty of violating Penal Code 487(a),
9 grand theft. Respondent was placed on five years probation and ordered to pay \$80,000 in
10 restitution. The circumstances giving rise to Respondent's conviction are as follows:

11 12. From about October 7, 2004 through March 31, 2006, Respondent stole
12 money from his employer the California Department of Corrections.

13 13. In a disciplinary action entitled "In the Matter of Accusation Against Percy
14 Randal Wade" Case No. 6530, the Board of Vocational Nursing and Psychiatric Technicians and
15 Respondent entered into a Stipulated Surrender and Order, effective December 25, 2003, in
16 which Respondent surrendered his Vocational Nurse License No. 174594. The Stipulated
17 Surrender of License and Order explicitly found that Respondent's surrender "shall constitute the
18 imposition of discipline." The circumstances giving rise to the Stipulated Surrender and Order
19 are as follows:

20 14. From about March 3, 2000 until July 10, 2000, while employed at San
21 Francisco General Hospital, Respondent made several false, incorrect, grossly inconsistent or
22 unintelligible entries in hospital or patient records regarding Percocet, a controlled substance.

23 **FIRST CAUSE FOR DISCIPLINE**

24 (Unprofessional Conduct)

25 15. Respondent is subject to disciplinary action under section 2761(a) in that
26 he engaged in unprofessional conduct. The circumstances are set forth in paragraphs 11-14,
27 above.

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16. Respondent is subject to disciplinary action under sections 490 and 2761(f) of the Code in that he was convicted of crimes substantially related to the qualifications, functions, and duties of a registered nurse. The circumstances are set forth in paragraphs 11-12, above.

(Unprofessional Conduct- Discipline of Vocational Nurse License)

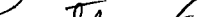
PRAYER

1. Revoking or suspending Registered Nurse License Number 610760, issued to Percy R. Wade.

2. Ordering Percy R. Wade to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED: 7/14/08


RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant